

MINUTES OF THE MEETING
OF THE CITY COUNCIL OF THE
CITY OF BURLINGTON
April 3, 2007
7:30 P.M.

The City Council of the City of Burlington held a regularly scheduled meeting in the Council Chamber, Municipal Building, 425 South Lexington Avenue, Burlington, N. C., 27216-1358, on April 3, 2007, at 7:30 p.m.

Mayor Stephen M. Ross presided

Councilmembers present: Mayor Ross, Councilmembers Jones, Huffman, Starling and Wall

Councilmembers absent: None

Harold Owen, City Manager, present

Robert M. Ward, City Attorney, present

Jondeen D. Terry, City Clerk, present

INVOCATION: Councilmember Don Starling

PROCLAMATION: Cummings High School Basketball Team - 2A State Champions

MINUTES

Mayor Ross called for approval of the City Council minutes of the meeting of March 20, 2007.

Upon motion by Councilmember Huffman, seconded by Councilmember Wall, it was resolved unanimously to approve the minutes of the meeting held on March 20, 2007.

ADOPTION OF AGENDA

Upon motion by Councilmember Jones, seconded by Councilmember Starling, it was resolved unanimously to adopt the agenda.

CONSENT AGENDA:

1. A) To set the date for advertising 2006 unpaid taxes for May 11, 2007.
- B) To authorize the Mayor to sign a Substitution of Trustee document for the City's Deed of Trust on properties of Jessie Lee Rogers Phillips and Ophelia Rogers. The City desires to substitute Mr. Marc O'Neal as its Trustee in place of Spencer B. Ennis on the Deed of Trust for the loans in order to execute a modification agreement to the existing Deeds of Trust.
- C) To re-approve final plats of the street right-of-way dedication of Bonnar Bridge Parkway and subdivision of John A. Moody property. The plats were not recorded within the 60-day time limit provided for within the Subdivision Regulations.
- D) To approve a final plat of the Jeffrey L. Wyrick and Jayne R. Wyrick Subdivision. The property is located on the south side of Willowlake Road approximately 780 feet northwest of Northridge Drive as shown on plans by Carolina Cornerstone Surveying and Land Design dated March 7, 2007, and containing two lots.
- E) To approve a final plat of the Splawn Associates Subdivision. The property is located on the south side of Anthony Road approximately 990 feet southwest of Old Trail Road as shown on plans by Wayne B. Perry dated February 28, 2007, and containing two lots.
- F) To approve a final plat of Phase 3, The Woods at Grove Park. The property is located on the north side of South Mebane Street approximately 900 feet southwest of Alamance Road as shown on plans by Simmons Engineering and Surveying, Inc., dated March 6, 2007, and containing 23 lots.
- G) To approve a final plat of Phase 1, Section Four, Park Place Townhomes. The property is located east of Springwood Village Drive, north of Whitsett Park Road and west of Springwood Church Road as shown on plans by Alley, Williams, Carmen and King, Inc., dated March 2, 2007, and containing 12 lots.

H) Budget Amendment 2007-31 - CDBG Reallocation of Funds

BA2007-31

Decrease Expenditures:

570-73400-6807 Contingency \$4,800

Increase Expenditures:

570-73400-6844 Fairchild Comfort Station \$4,800

Councilmember Wall asked to be recused from Item C.

Upon motion by Councilmember Starling, seconded by Councilmember Jones, it was resolved unanimously to allow Councilmember Wall to be recused from Item C.

Upon motion by Councilmember Starling, seconded by Councilmember Huffman, it was resolved unanimously to approve the foregoing consent agenda with the exception of consent agenda Item C.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to approve Item C. Councilmember Wall abstained.

PUBLIC HEARINGS:

ITEM 2: REZONE PROPERTY - NORTH CHURCH STREET

Mayor Ross announced that a public hearing had been scheduled to consider rezoning from R-9, Residential District, to B-2, General Business District, and MF-A, Multifamily District. The property is located on the north side of North Church Street approximately 360 feet southeast of McKinney Street and being as shown on Alamance County Tax Map 13-17, Lot 4C (from R-9 to MF-A) and Lot 4D (from R-9 to B-2).

Charles Bateman, Bateman, Oertel & Koonts, PLLC, representing Mr. Wallace Gilliam and MV Communities of Columbia, South Carolina, stated that the property was located on North Church Street southeast of McKinney Street. Mr. Bateman stated that the proposal would be to rezone the rear portion, which was a 6.5 acre lot, from the existing R-9 to MF-A and the front lot to B-2 which is consistent with the zoning along North Church Street. He stated that there was a

pending application that would be coming to the Council on April 17, 2007, for rezoning of Mr. Dick Stout's property that was the last lot fronting on North Church Street to the west and was unanimously recommended by the Planning and Zoning Commission to be rezoned to B-2. Mr. Bateman stated that his client was a major developer of apartment homes and would have a full-time on-site manager and maintenance person. He stated that traffic would enter in and out off Church Street and that it would include a 20-foot buffer with a fence. Mr. Bateman stated that this request had received an almost unanimous support of the Planning and Zoning Commission and that this would be a positive development for east Burlington and asked that the City Council grant this proposed amendment to zoning.

Mr. Russell Koelsch, 2842 McKinney Street, resident for 40 years, spoke in opposition of the rezoning due to the development being in close proximity to a school. He stated that the neighbors did not want to see another Morningside Drive apartment complex.

Mr. John Humphrey, who has lived on McKinney Street for 41 years, spoke in opposition of the rezoning due to lowering the property values of the surrounding homes and overcrowding the school.

Mr. Darrin Miller, 2904 McKinney Street, spoke in opposition of the rezoning due to the apartment possibly turning into Morningside Apartments, noise, overcrowding of schools, having a parking lot in the backyard in lieu of woods and lowering the value of his home and surrounding homes.

Mr. Russell Hogan, 2828 McKinney Street, stated that he has lived on McKinney Street for the past 41 years and spoke in opposition of the rezoning due to safety issues.

Mr. Bateman stated that this was a difficult land use issue but that the owners had a right to make an economic use of their land. He stated that he would be willing to amend the request to Conditional zoning on the back portion and requested that he item be tabled to allow him to meet with the Planning Department to determine the best course of action.

Councilmember Starling asked if that would include sitting down with people from the community.

Mr. Bateman stated that it would and that it was helpful for neighbors to attend the Planning and Zoning Commission

meetings. Mr. Bateman asked the Council to table the item until the May 1, 2007, City Council meeting.

Councilmember Huffman stated that he was not in agreement with MF-A, not even Conditional zoning. He stated that the property values should be protected and that the developer needed to consider developing with a lower density zoning classification.

Councilmember Jones suggested rezoning to R-6 or R-9, stating that MF-A would be taking the neighborhood in the wrong direction. He reiterated that the neighbors and developers need to work together.

Upon motion by Councilmember Jones, seconded by Councilmember Wall, it was resolved unanimously to continue the public hearing until the May 1, 2007, City Council meeting at 7:30 p.m.

REQUEST TO BE RECUSED

Councilmember Jones asked to be recused from Items 3, 6 and 7 due to his law partner's involvement with those items.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to allow Councilmember Jones to be recused from Items 3, 6 and 7.

ITEM 3: VOLUNTARY ANNEXATION - WINDSOR APARTMENTS

Mayor Ross announced that a public hearing had been scheduled to consider the proposed Windsor Apartments voluntary annexation.

Planning Director Robert Harkrader stated that each of the five voluntary annexations before the Council affected the petitioners' property only and not adjoining properties.

Mr. Harkrader reviewed the location of the annexation and stated that it was contiguous with City limits.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to close the public hearing.

Councilmember Huffman moved the adoption of the following ordinance:

07-07

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
CITY OF BURLINGTON, NORTH CAROLINA

WHEREAS, the City Council has been permitted under G.S. 160A-31 to annex the area described below; and

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at the City of Burlington Municipal Building at 7:30pm on April 3, 2007, after due notice by the publication on March 23, 2007; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-31;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Burlington, North Carolina that:

Section 1. By virtue of the authority granted by G.S. 160A-31 the following described territory is hereby annexed and made part of the City of Burlington as of April 3, 2007 at 11:59pm.

THE WINDSOR APARTMENTS ANNEXATION

A certain tract or parcel of land in Boone Station Township, Alamance County, North Carolina, bounded on the north by Michael Taylor, bounded on the east by PGS Burlington LLC, bounded on the south by Mackintosh LLC & Cox Associates, LLC and bounded on the west by the eastern right-of-way line of Rural Retreat Road and Jessie Roberts and being more particularly described as follows:

BEGINNING at a point located in the eastern right-of-way line of Rural Retreat Road, said point being the northwest corner of the herein described Windsor Burlington, LLC property, etc. and adjoining the property of Michael A. Taylor, (Alamance County Pin 88444451878); thence with the lands of Michael A. Taylor, North 69 deg. 36' 00" East a distance of 1,066.01 feet to a point in the line with PGS Burlington LLC/Tower Burlington LLC (Alamance County Pin 8844535878); thence South 00 deg. 21' 04" West along the existing Burlington corporate

limit line a distance of 1,593.31 feet to a point (south of Interstate 85/40) in the southern right-of-way line of Danbrook Road; thence along the southern right-of-way of Danbrook Road, South 86 deg. 47' 52" West a distance of 1,340.97 feet to a point in the northwest corner of Mackintosh LLC (Alamance County Pin 8844414949); thence across Danbrook Road North 03 deg. 12' 08" West a distance of 60.00 feet to a point in the line of the southern right-of-way of I-85/40; thence South 86 deg. 47' 52" West a distance of 112.39 feet to a point, said point being the southwest corner of the herein described Windsor Burlington LLC property, etc.; thence North 18 deg. 42' 05" East across Interstate I-85/40 a distance of 333.75 feet to a point in the northern right-of-way of Interstate 85/40, said point also being in the eastern right-of-way of Rural Retreat Road; thence North 21 deg. 07' 18" East along the eastern right-of-way of Rural Retreat Road a distance of 289.73 feet to a point, said point being in the southern property line of the Roberts' property (Alamance County Pin 8844432213); thence along the property lines of the Roberts' property the following courses and distances: North 85 deg. 58' 54" East a distance of 642.29 feet to a point; thence North 5 deg. 29' 03" West a distance of 379.83 feet to a point; thence South 86 deg. 07' 29" West a distance of 453.85 feet to a point in the eastern right-of-way line of Rural Retreat Road; thence North 21 deg. 07' 18" East along the eastern right-of-way of Rural Retreat Road a distance of 283.18 feet to a point, said point being the BEGINNING and including an area to be annexed into the Burlington Corporate Limits of 35.09 Acres or 0.055 Square Miles, and being as shown on Annexation Plat - Windsor Burlington, LLC, as prepared by Murphy Geomatics, Professional Land Surveying, Raleigh, North Carolina.

Section 2. Upon and after April 3, 2007 at 11:59pm, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Burlington and shall be entitled to the same privileges and benefits as other parts of the City of Burlington. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Burlington shall cause to be recorded in the office of the Register of Deeds of Alamance County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be

delivered to the County Board of Elections, as required by G.S. 163-288.1.

The foregoing ordinance was seconded by Councilmember Wall, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Huffman, Starling and Wall. Councilmember Jones abstained.

ITEM 4: VOLUNTARY ANNEXATION - BURLINGTON STATION

Mayor Ross announced that a public hearing had been scheduled to consider the proposed Burlington Station voluntary annexation.

Planning Director Robert Harkrader stated that this request was for Burlington Station located north of University Commons and the intersection of Rural Retreat Road and University Drive. He stated that the entire property was retail and would be a contiguous annexation.

Mr. Charles Bateman, representing Burlington Station, stated that they were enthusiastic about becoming a part of Burlington.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to close the public hearing.

Councilmember Huffman moved the adoption of the following ordinance:

07-08

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF BURLINGTON, NORTH CAROLINA

WHEREAS, the City Council has been permitted under G.S. 160A-31 to annex the area described below; and

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at the City of Burlington Municipal

Building at 7:30pm on April 3, 2007, after due notice by the publication on March 23, 2007; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-31;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Burlington, North Carolina that:

Section 1. By virtue of the authority granted by G.S. 160A-31 the following described territory is hereby annexed and made part of the City of Burlington as of April 3, 2007 at 11:59pm.

BURLINGTON STATION ANNEXATION

A certain tract or parcel of land in Boone Station Township, Alamance County, North Carolina, bounded on the north by the southern right-of-way lines of Rural Retreat Road and University Drive, bounded on the east by west right-of-way line of University Drive, bounded on the south by PGS Burlington II, LLC & Larry T. Glosson and bounded on the west by the eastern right-of-way line of Rural Retreat Road and being more particularly described as follows:

Beginning at a corner with PGS Burlington II, LLC and REES 511 LLC in the southern right-of-way line of University Drive; thence N 86 38' 38" W 667.67 feet to a corner with REES 511 LLC and Larry T. Glosson, in the line of PGS Burlington II, LLC; thence N 08 31' 52" E 189.37 feet to a corner with REES 511 LLC and Larry T. Glosson; thence N 67 36' 42" W 66.25 feet to a corner with REES 511 LLC and Larry T. Glosson; thence N 86 06' 47" W 175.48 feet to a corner with REES 511 LLC and Larry T. Glosson in the eastern right-of-way of Rural Retreat Road; thence N 29 08' 22" E 17.53 feet to a corner in the eastern right-of-way of Rural Retreat Road; thence S 61 24' 29" E 9.93 feet to a corner in the eastern right-of-way of Rural Retreat Road; thence N 28 36' 02" E 247.16 feet to a corner in the eastern right-of-way of Rural Retreat; thence with a curve to the right having a radius of 485.56 feet and a chord bearing and distance of N 38 26' 15" E 165.15 feet to a corner in the eastern right-of-way of Rural Retreat Road and the southern right-of-way of University Drive; thence N 89 47' 35" E 89.58 feet to a point in the southern right-of-way of Rural Retreat Road and the southern right-of-way of University Drive; thence S 44 59' 38" E 131.60 feet to a corner in the southern right-of-way of University Drive; thence S 40 42' 08"

E 696.03 feet to the point and place of BEGINNING containing 6.143 acres (0.0096 square miles).

Section 2. Upon and after April 3, 2007 at 11:59pm, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Burlington and shall be entitled to the same privileges and benefits as other parts of the City of Burlington. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Burlington shall cause to be recorded in the office of the Register of Deeds of Alamance County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the County Board of Elections, as required by G.S. 163-288.1.

The foregoing ordinance was seconded by Councilmember Wall, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Jones, Huffman, Starling and Wall.

ITEM 5: VOLUNTARY ANNEXATION - ST. MARK'S CHURCH

Mayor Ross announced that a public hearing had been scheduled to consider the proposed St. Mark's Church voluntary annexation.

Planning Director Harkrader stated that this property was owned by St. Mark's Church and would be contiguous with the City.

City Manager Harold Owen stated that this property was adjacent to Joe Davidson Park and would be contiguous.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to close the public hearing.

Councilmember Huffman moved the adoption of the following ordinance:

07-09

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
CITY OF BURLINGTON, NORTH CAROLINA

WHEREAS, the City Council has been permitted under G.S. 160A-31 to annex the area described below; and

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at the City of Burlington Municipal Building at 7:30pm on April 3, 2007, after due notice by the publication on March 23, 2007; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-31;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Burlington, North Carolina that:

Section 1. By virtue of the authority granted by G.S. 160A-31 the following described territory is hereby annexed and made part of the City of Burlington as of April 3, 2007 at 11:59pm.

ST. MARKS ANNEXATION

Certain tracts or parcels of land in Boone Station Township, Alamance County, North Carolina, bounded on the north by the southern right-of-way line of Garden Road, property of Clifton & Ann Underwood, & property of William & Daryl Lyn Bolden, bounded to the east by Pool or Pond Partners, LLC, bounded on the south by Dorothy McDaries, property of William Earl Grant, the northern right-of-way line of Peeler Street, property of Janet Yates, property of Ray & Edith Linens, property of Richard & Linda Jones, property of Della Gentry, property of the City of Burlington, and bounded on the west by M & J Investors and being more particularly described as follows:

Beginning at an iron pipe at the northwest corner of lot 1, p.b. 66 pg. 215, thence the following courses and distances:

S 34-49-15 W, 149.90 to an EIP
S 18-44-35 W, 60.84 to an EIP

S 55-16-56 E, 32.50 to an EIP
S 78-30-30 E, 147.84 to an EIP
S 55-19-19 E, 15.43 to an EIP
N 34-43-04 E, 149.97 to an EIP
S 55-11-56 E, 49.93 to an EIP
S 34-43-43 W, 330.25 to an EIP
N 52-35-14 W, 21.63 to an EIP
N 78-34-47 W, 139.76 to an EIP
N 78-08-35 W, 20.13 to an EIP
N 11-29-49 E, 99.87 to an EIP
N 78-29-36 W, 209.32 to a point
S 11-40-55 W, 215.89 to an EIP
S 11-48-08 W, 200.00 to an EIP
N 78-31-12 W, 150.00 to an EIP
N 11-44-20 E, 200.17 to an EIP
N 11-40-23 E, 18.64 to an EIP
N 67-45-27 W, 398.90 to an EIP
N 26-03-44 E, 77.60 to a point
N 63-52-37 W, 319.55 to an EIP
N 29-33-48 W, 135.35 to an EIP
N 25-04-58 E, 582.02 to a point
S 65-27-39 E, 411.68 to an a point
S 26-05-54 W, 28.76 to an a point
S 55-46-35 E, 519.29 to an EIP
S 55-12-30 E, 58.99 to an EIP
S 55-12-40 E, 159.76 to the point and place of beginning.

Containing 763,047 square feet, 17.52 acres, 0.0273 square miles.

Section 2. Upon and after April 3, 2007 at 11:59pm, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Burlington and shall be entitled to the same privileges and benefits as other parts of the City of Burlington. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Burlington shall cause to be recorded in the office of the Register of Deeds of Alamance County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the County Board of Elections, as required by G.S. 163-288.1.

The foregoing ordinance was seconded by Councilmember Starling, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Jones, Huffman, Starling and Wall.

ITEM 6: VOLUNTARY ANNEXATION - THE GLENNS AT ELON

Mayor Ross announced that a public hearing had been scheduled to consider the proposed The Glenns at Elon voluntary annexation.

Planning Director Harkrader stated that this was a voluntary annexation that fronts Webb Avenue and was contiguous with primary corporate City limits.

Upon motion by Councilmember Starling, seconded by Councilmember Huffman, it was resolved unanimously to close the public hearing.

Councilmember Starling moved the adoption of the following ordinance:

07-10

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
CITY OF BURLINGTON, NORTH CAROLINA

WHEREAS, the City Council has been permitted under G.S. 160A-31 to annex the area described below; and

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at the City of Burlington Municipal Building at 7:30pm on April 3, 2007, after due notice by the publication on March 23, 2007; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-31;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Burlington, North Carolina that:

Section 1. By virtue of the authority granted by G.S. 160A-31 the following described territory is hereby annexed and made part of the City of Burlington as of April 3, 2007 at 11:59pm.

THE GLENNS APARTMENTS ANNEXATION

A certain tract or parcel of land in Boone Station Township, Alamance County, North Carolina, bounded on the north by the south right-of-way line of Webb Avenue, bounded on the east by the James Gunn heirs, bounded on the south by the North Carolina Railroad right-of-way and bounded on the west by property owned by Shannon Bradsher and being more particularly described as follows:

BEGINNING at an existing iron stake in the southern right-of-way of Webb Avenue, thence S 07 14' 22" E 273.23' to an existing iron stake in the northern right-of-way of the North Carolina Railroad, thence S 07 14' 22" E, 50.27' to a mathematical point, thence S 81 13' 50" W, 74.50' to a mathematical point, thence S 85 53' 59" W, 74.63' to a mathematical point, thence S 70 18' 16" W, 76.81' to a mathematical point, thence N 07 14' 22" W, 54.31' to an existing iron stake in the northern right-of-way of the North Carolina Railroad, thence N 07 14' 22" W, 287.69' to an existing iron stake, thence N 07 14' 22" W, 15.99' to a mathematical point in the southern right-of-way of Webb Avenue, thence following the southern right-of-way of Webb Avenue, N 85 15' 00" E, 36.65 to a mathematical point, thence N 86 41' 02" E, 62.26' to a mathematical point, thence N 88 45' 27" E, 51.07' to a mathematical point, thence N 89 31' 15" E, 75.00' to an existing iron stake also being the point of beginning and containing 1.70 acres total as shown on a survey by Carolina Cornerstone Surveying dated 12/05/06, Annexation Plat, Property of the Glenns at Elon, LLC.

Section 2. Upon and after April 3, 2007 at 11:59pm, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Burlington and shall be entitled to the same privileges and benefits as other parts of the City of Burlington. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Burlington shall cause to be recorded in the office of the Register of Deeds of

Alamance County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the County Board of Elections, as required by G.S. 163-288.1.

The foregoing ordinance was seconded by Councilmember Huffman, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Huffman, Starling and Wall. Councilmember Jones abstained.

ITEM 7: VOLUNTARY ANNEXATION - WATERFALLS TOWNHOMES

Mayor Ross announced that a public hearing had been scheduled to consider the proposed Waterfalls Townhomes voluntary annexation.

Planning Director Harkrader stated that this annexation was contiguous with the corporate City limits and that the primary entrance was off Longpine Road.

Councilmember Huffman explained that public water and sewer was available to these areas and that the City's policy was that water and sewer would not be extended outside the corporate City limits.

Ms. Beth Bunting, daughter of Peggy Robertson, asked how this would affect her mother's property and stated that if this annexation affected her mother's that property she would be opposed.

Mr. Harkrader stated that Ms. Bunting's mother's property would not be affected by this annexation.

Upon motion by Councilmember Huffman, seconded by Councilmember Wall, it was resolved unanimously to close the public hearing.

Councilmember Huffman moved the adoption of the following ordinance:

07-11

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
CITY OF BURLINGTON, NORTH CAROLINA

WHEREAS, the City Council has been permitted under G.S. 160A-31 to annex the area described below; and

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at the City of Burlington Municipal Building at 7:30pm on April 3, 2007, after due notice by the publication on March 23, 2007; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-31;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Burlington, North Carolina that:

Section 1. By virtue of the authority granted by G.S. 160A-31 the following described territory is hereby annexed and made part of the City of Burlington as of April 3, 2007 at 11:59pm.

THE WATERFALLS TOWNHOMES ANNEXATION

A certain tract or parcel of land in Boone Station Township, Alamance County, North Carolina, bounded on the north by Vasant & Prabha Sejpal and Author & Peggy Robertson, bounded on the east by west right-of-way line of Long Pine Road, bounded on the south by David Isley and bounded on the west by property owned by WKS Corporation and being more particularly described as follows:

Beginning at an existing stone, said stone being in the southern line of the Vasant and Prabha Sejpal property (D.B. 519 PG. 325); Thence with the southern line of the Sejpal property S 58° 06' 03" W for a distance of 577.59 feet to a point, said point being a common corner between the Sejpal property and the Wks Corporation property (D.B. 2376 PG. 314); thence with the western line of the Wks Corporation property S 21° 21' 05" E for a distance of 81.03 feet to a point; Thence N 87° 12' 52" E for a distance of 50.14 feet to a point; Thence S 11° 43' 44" W for a distance of 137.62 feet to a

point; Thence S 36° 01' 34" E for a distance of 163.36 feet to a point; Thence S 34° 16' 51" W for a distance of 93.01 feet to a point; Thence S 30° 38' 12" E for a distance of 52.68 feet to a point; Thence S 36° 10' 43" W for a distance of 62.93 feet to a point; Thence S 68° 04' 32" E for a distance of 185.61 feet to a point; Thence S 04° 06' 45" W for a distance of 88.81 feet to a point; Thence S 69° 05' 40" E for a distance of 71.20 feet to a point; Thence S 45° 42' 03" W for a distance of 146.64 feet to a point; Thence S 37° 12' 40" E for a distance of 217.85 feet to a point, said point being in the Northern line of the Evergreen Construction property (D.B. 2158 PG. 434); Thence with the northern line of the Evergreen Construction Company N 54° 21' 50" E for a distance of 173.05 feet to an existing iron pipe; Thence from said pipe S 18° 55' 39" E for a distance of 405.29 feet to an existing stone, said stone being set in the eastern line of the David and Ann Isley (D.B. 546 PG. 772); Thence with the eastern line of the Isley property N 43° 43' 28" E for a distance of 1031.02 feet to an existing iron pipe, said pipe being the south eastern corner of the Clinton Wayne York Jr. property (D.B. 1284 PG. 99); hence with the southern line of the York property N 54° 03' 30" W for a distance of 872.39 feet to an existing angle iron; Thence from said iron N 23° 35' 37" W for a distance of 47.53 feet to an existing iron pipe; Thence from said pipe N 23° 35' 37" W for a distance of 282.77 feet to the Point and Place of Beginning and containing 22.70 Acres more or less

Section 2. Upon and after April 3, 2007 at 11:59pm, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Burlington and shall be entitled to the same privileges and benefits as other parts of the City of Burlington. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Burlington shall cause to be recorded in the office of the Register of Deeds of Alamance County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the County Board of Elections, as required by G.S. 163-288.1.

The foregoing ordinance was seconded by Councilmember Wall, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Huffman, Starling and Wall. Councilmember Jones abstained.

ITEM 8: FINAL RESOLUTION - CONFIRMING ASSESSMENT ROLL - WATER IMPROVEMENTS - ROCKWOOD AVENUE - PUBLIC INTEREST AUTHORITY

Mayor Ross announced that a public hearing had been scheduled to consider adoption of a final resolution confirming an assessment roll for water improvements on Rockwood Avenue as follows:

ROCKWOOD AVENUE from West Front Street to Dead End

Mr. Lanny Rhew, City Engineering Department, stated that this was the final resolution for providing water improvements that had been completed and that the Engineering Department recommended that the Council consider confirmation of assessment roll as presented.

Upon motion by Councilmember Starling, seconded by Councilmember Jones, it was resolved unanimously to close the public hearing.

Councilmember Huffman moved the adoption of the following resolution:

07-09

FINAL RESOLUTION CONFIRMING ASSESSMENT ROLL FOR LOCAL IMPROVEMENTS

Water Assessment Roll

ROCKWOOD AVENUE from West Front Street to Dead End

WHEREAS, the City Council of the City of Burlington has adopted a preliminary assessment roll, by resolution, for certain local improvements made on the street named above; and,

WHEREAS, said resolution fixed the 3rd day of April 2007,

at 7:30 p.m. in the Council Chamber, Municipal Building, Burlington, as the time and place for a public hearing on any objections to the assessments included in said assessment roll and directed that notice to be published as provided by law; and;

WHEREAS, said notice was duly published in the Burlington Times-News; and,

WHEREAS, said public hearing has now been held and no objections have been made.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BURLINGTON

- Sec. 1. That the City Council finds as a fact that each lot abutting on said improvements has been specifically benefited by said improvements in at least the amount assessed against each lot as shown by said preliminary assessment rolls for each project.
- Sec. 2. That said preliminary assessment roll be and the same is hereby confirmed at 7:30 p.m. on this the 3rd day of April 2007, and is hereby made the final assessment roll for said improvements.
- Sec. 3. That the City Clerk be and is hereby directed to enter into the minutes of the City the said assessment roll, the date and hour of said confirmation thereof and to deliver a copy of said assessment roll to the City Tax Collector.
- Sec. 4. That within ten days from the confirmation of the assessment rolls, the City Clerk shall give notice to all owners of lands to be assessed now that the assessment roll has been confirmed and that the assessments may be paid at any time before the expiration of 30 days from the date of such notice, without interest from the date of confirmation of the assessment roll, but that if such assessment is not paid in full within said time, all installments thereof shall bear interest at the rate of eight percent per annum from the date of the confirmation of the assessment roll. Such notice by the City Clerk shall be given by regular mail. The certificate of the City Clerk that such notices have been mailed shall be conclusive in the absence of fraud.

Sec. 5. That this resolution shall take effect upon passage.

The foregoing resolution was seconded by Councilmember Starling, and it was passed unanimously.

NEW BUSINESS:

ITEM 9: SET DATE OF PUBLIC HEARING - REZONING REQUEST -
UNIVERSITY DRIVE AND RURAL RETREAT

Mayor Ross announced that the City Council would consider a request to set a date of public hearing to rezone from R-15, Residential District, to CB, Conditional Business District, for a Unified Business Development allowing all uses permitted in a B-2, General Business District, excluding the following: auto repair and service, adult establishments, laundries, industrial laundries and plumbing, sheet metal and roofing shops. The property is located on the southeast corner of Rural Retreat Road and University Drive as shown on Alamance County Tax Map 3-26-89. (On Appeal)

Mr. Charles Bateman, Bateman, Oertel & Koonts, PLLC, stated that this request did not receive a favorable recommendation from the Planning and Zoning Commission. Mr. Bateman stated that this was a meritorious proposal and asked that the Council set a date of public hearing.

City Manager Harold Owen asked Mr. Harkrader to reference the Planning and Zoning Commission action and the Southwest Plan.

Mr. Harkrader stated that this property was located at the intersection of Rural Retreat and University Drive. Mr. Harkrader stated that the comprehensive planning for this area called for high-density residential use. He said that this request was discussed at the Planning and Zoning Commission meeting and with Mr. Bateman, who was told that the proposal would be contrary to the Land Use Plan. Mr. Harkrader stated that the Planning and Zoning Commission recommended denial this request.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved 4-1 to set a date of public hearing for May 1, 2007, to consider the rezoning request on University Drive and Rural Retreat. Councilmember Jones voted against the motion.

PUBLIC COMMENT PERIOD:

There were no public comments.

ADJOURN:

Upon motion by Councilmember Starling, seconded by Councilmember Wall, it was resolved unanimously to adjourn.

Jondeen D. Terry
City Clerk